

AMENDED IN SENATE JULY 9, 2009
AMENDED IN ASSEMBLY MAY 14, 2009
AMENDED IN ASSEMBLY APRIL 14, 2009
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1080

Introduced by Assembly Member Skinner
(Coauthors: Assembly Members Ammiano and Torlakson)
(Coauthor: Senator Hancock)

February 27, 2009

~~An act to add Section 17535.5 to the Education Code, relating to school facilities.~~ *An act to amend Sections 17515, 17516, 17518, 17519, and 17524 of the Education Code, relating to school districts.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1080, as amended, Skinner. ~~School facilities: rent or lease: vacant classrooms.~~ *School districts: leases and agreements.*

Existing law authorizes a school district to enter into leases and agreements relating to real property and buildings to be used jointly by the district and any private person, firm, or corporation, pursuant to specified provisions.

This bill would additionally authorize a school district to enter into leases and agreements relating to real property and buildings to be used jointly by the district and a local governmental agency, as defined.

~~(1) Existing law authorizes the governing board of a school district to enter into agreements to make vacant classrooms or other space in operating school buildings available for rent or lease to other school districts, educational agencies, except private educational institutions that maintain kindergarten or grades 1 to 12, inclusive, governmental~~

~~units, nonprofit organizations, community agencies, professional agencies, commercial and noncommercial firms, corporations, partnerships, businesses, and individuals, including during normal school hours if the school is in session.~~

~~This bill, notwithstanding the provision above, would authorize the governing board of the Emery Unified School District, upon a $\frac{2}{3}$ vote, to enter into a joint-use, joint-ownership agreement with a governmental agency whereby a new school and community services facility would be constructed on land owned by the school district.~~

~~(2) The California Constitution provides that a special statute is invalid in any case if a general statute can be made applicable.~~

~~This bill would declare that, due to unique circumstances applicable only to the Emery Unified School District, as set forth in the bill, a general statute cannot be made applicable and a special statute is necessary.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17515 of the Education Code is amended
2 to read:

3 17515. Any school district may enter into leases and agreements
4 relating to real property and buildings to be used jointly by the
5 district and any private person, firm, *local governmental agency,*
6 *as defined in paragraph (3) of subdivision (f) of Section 4420 of*
7 *the Government Code*, or corporation pursuant to this article. As
8 used in this article, “building” includes onsite and offsite facilities,
9 utilities and improvements that, as agreed upon by the parties, are
10 appropriate for the proper operation or function of the building to
11 be occupied jointly by the district and the private person, firm, or
12 corporation. It also includes the permanent improvement of school
13 grounds.

14 Any building, or portion thereof, that is used by a private person,
15 firm, *local governmental agency, as defined in paragraph (3) of*
16 *subdivision (f) of Section 4420 of the Government Code*, or
17 corporation pursuant to this section shall be subject to the zoning
18 and building code requirements of the local jurisdiction in which
19 the building is situated.

1 Section 53094 of the Government Code shall not be applicable
2 to uses of school district property or buildings authorized by this
3 section, except in the case of property or buildings used solely for
4 educational purposes.

5 *SEC. 2. Section 17516 of the Education Code is amended to*
6 *read:*

7 17516. (a) Before the governing board of a school district
8 enters into a lease or agreement pursuant to this article, it shall
9 own a site upon which a building to be used by the district and
10 private person, firm, *local governmental agency, as defined in*
11 *paragraph (3) of subdivision (f) of Section 4420 of the Government*
12 *Code*, or corporation may be constructed and shall have complied
13 with the provisions of law relating to the selection and approval
14 of sites.

15 (b) This section shall not apply to any building to be acquired
16 by purchase pursuant to Article 2 (commencing with Section
17 17110) of Chapter 16 of Part 10.

18 *SEC. 3. Section 17518 of the Education Code is amended to*
19 *read:*

20 17518. (a) The governing board of a school district may let
21 to any private person, firm, *local governmental agency, as defined*
22 *in paragraph (3) of subdivision (f) of Section 4420 of the*
23 *Government Code*, or corporation, any real property that belongs
24 to the district if the instrument by which the property is let requires
25 the lessee therein to construct on the demised premises, or provide
26 for the construction thereon of, a building or buildings for the joint
27 use of the school district and the private person, firm, *local*
28 *governmental agency, as defined in paragraph (3) of subdivision*
29 *(f) of Section 4420 of the Government Code*, or corporation during
30 the term of the agreement.

31 (b) However, title to that portion of the building to be occupied
32 by the private individual, firm, *local governmental agency, as*
33 *defined in paragraph (3) of subdivision (f) of Section 4420 of the*
34 *Government Code*, or corporation shall remain exclusively the
35 personal property of the private party during the term of the lease
36 and the title to that portion of the building to be occupied by the
37 district shall vest in the district upon completion thereof and
38 acceptance thereof by the school district. No rental fee or other
39 charge for the use of the building shall be paid by the district.

1 SEC. 4. *Section 17519 of the Education Code is amended to*
 2 *read:*

3 17519. Any lease of real property by a school district to a
 4 private person, firm, *local governmental agency, as defined in*
 5 *paragraph (3) of subdivision (f) of Section 4420 of the Government*
 6 *Code*, or corporation pursuant to this article shall be upon the terms
 7 and conditions as the parties thereto may agree and may be entered
 8 into without complying with any provisions of this code except as
 9 provided in this article. However, any lease or agreement pursuant
 10 to this article shall be subject to Article 7 (commencing with
 11 Section 35230) of Chapter 2 of Part 21.

12 SEC. 5. *Section 17524 of the Education Code is amended to*
 13 *read:*

14 17524. (a) After considering all proposals submitted, the
 15 governing board of the school district may, subject to Section
 16 17525, select the plan or proposal that best meets the needs of the
 17 school district and enter into a contract incorporating that plan or
 18 proposal either as submitted or as revised by the governing board
 19 of the school district. However, the governing board shall not
 20 approve any proposal nor enter into a lease or contract
 21 incorporating a proposal until the governing board has submitted
 22 the proposal to the State Board of Education, and the State Board
 23 of Education has approved the proposal. The State Board of
 24 Education shall, within 45 days of the date of submission, notify
 25 the governing board of its approval or disapproval.

26 (b) The governing board shall require any person, firm, *local*
 27 *governmental agency, as defined in paragraph (3) of subdivision*
 28 *(f) of Section 4420 of the Government Code*, or corporation with
 29 whom it enters into a lease or agreement pursuant to this article to
 30 file one of the following, as determined by the governing board:

- 31 (1) A bond for the performance of the lease or agreement.
- 32 (2) An irrevocable letter of credit issued by a state or national
 33 bank or a federal or state credit union for the performance of the
 34 lease or agreement.

35 ~~SECTION 1. Section 17535.5 is added to the Education Code,~~
 36 ~~to read:~~

37 ~~17535.5. (a) Notwithstanding any other provision of this~~
 38 ~~article, the governing board of the Emery Unified School District,~~
 39 ~~upon a two-thirds vote, may enter into a joint-use, joint-ownership~~
 40 ~~agreement with a governmental agency whereby a new school and~~

1 community services facility is constructed on land owned by the
2 school district. The agreement shall specify all of the following:

3 (1) ~~The school district shall retain full ownership of the land~~
4 ~~upon which the facilities are constructed.~~

5 (2) ~~There is a demonstrated need for the joint ownership of the~~
6 ~~facilities.~~

7 (3) ~~The joint ownership of the facilities shall be compatible with~~
8 ~~the educational purposes of those facilities.~~

9 (4) ~~Parameters are set for the degree and nature of the joint~~
10 ~~ownership of the facilities, including a plan to ensure pupil safety.~~

11 (5) ~~If the property is sold, the school district shall retain from~~
12 ~~the proceeds of the sale, at the minimum, an amount equivalent to~~
13 ~~any state school facilities bond funds received by the district.~~

14 (b) ~~The space and use limitations of Sections 17531 and 17532~~
15 ~~do not apply to facilities constructed under an agreement entered~~
16 ~~into pursuant to this section.~~

17 ~~SEC. 2. The Legislature finds and declares that a special law~~
18 ~~is necessary and that a general law cannot be made applicable~~
19 ~~within the meaning of Section 16 of Article IV of the California~~
20 ~~Constitution because of the unique circumstances of the Emery~~
21 ~~Unified School District. The facts constituting the special~~
22 ~~circumstances that distinguish the Emery Unified School District~~
23 ~~from other school districts are the high degree of integration~~
24 ~~between the community and educational services of the joint-use~~
25 ~~facilities to be constructed pursuant to this legislation.~~